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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

BK-22-11249-abl
Chapter 11 (Subchapter V)

NUVEDA, LLC, a Nevada limited
liability company,

Debtor(s).

Hearing Date: August 23, 2022
Hearing Time: 2:00 PM

**LIMITED JOINDER TO CREDITOR JENNIFER M. GOLDSTEIN'S
MOTION TO DISMISS BANKRUPTCY PETITION**

The State of Nevada *ex rel.* Cannabis Compliance Board (“CCB”), by and through its counsel, Attorney General Aaron D. Ford, Senior Deputy Attorney General, Emily N. Bordelove, and Senior Deputy Attorney General, Ashley A. Balducci hereby submits this Limited Joinder To Creditor Jennifer M. Goldstein’s Motion To Dismiss Bankruptcy Petition (“underlying Motion”) and Request upon dismissal for an Order pursuant to 11 U.S.C. § 362(j) confirming that the automatic stay has been terminated. This Limited Joinder is filed pursuant to 11 U.S.C. § 105(a).

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MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

The CCB agrees that dismissal is warranted under 11 U.S.C. § 1112(b) and hereby adopts and incorporates those legal arguments relating to Debtor NuVeda LLC's ("Debtor" or "NuVeda") ownership interest in cannabis establishment subsidiaries, Clark NMSD LLC ("Clark NMSD") and Nye Natural Medicinal Solutions LLC ("Nye Natural"), as set forth in the underlying Motion, adding that Debtor's ownership interest was not formally transferred under the CCB.

Alternatively, the CCB files, contemporaneous with this Limited Joinder, a separate Motion for declaratory relief in the form of an Order from this Court that this bankruptcy does not stay the CCB's ability to execute its regulatory and enforcement powers over Clark NMSD and Nye Naturals, given 11 USC § 362(b) provides for an exception to such stay for the exercise of regulatory powers. *See* Motion for Declaratory Relief filed contemporaneously with this Limited Joinder.

ADDITIONAL RELEVANT FACTS

A. OWNERSHIP AND INJUNCTIONS

As noted in the underlying Motion, the state court in Case No. A-17-755479-B enjoined Debtor "from ***selling, transferring, or otherwise disposing of any assets*** in their possession, custody, and/or control, ***including any Nevada cannabis license*** and cash received (except as needed for normal business operations) from the lawful sale of cannabis through their Nevada retail dispensaries until this Court orders otherwise." (emphasis added). *See* underlying Motion at ¶ 24 at 13, *see also* Exhibit 16 to underlying Motion, Dkt. 45 in Case No. A-17-755479-B,¹ March 14, 2019, Injunction at 2. This injunction prohibits Debtor from transferring its ownership interests in Clark NMSD and Nye Naturals.

The state court initially put this prohibition in place in a Temporary

¹ While the pleadings list the case number as A-17-755479-C, the Eighth Judicial District Court provides the case number as A-17-755479-B. *See* **Exhibit C**, attached to Decl. of Emily N. Bordelove.

1 Restraining Order (“TRO”) filed on February 5, 2019. *See* **Exhibit A.**, Dkt. 21 in Case
2 No. A-17-755479-B, February 5, 2019, Notice of Entry of Temporary Restraining
3 Order at 4, attached to Decl. of Emily N. Bordelove.

4 Furthermore, the state court in Case No. A-17-755479-B has not lifted nor
5 modified the above TRO or injunction to allow Debtor to transfer or otherwise dispose
6 of its assets or its Nevada cannabis licenses, including ownership in Clark NMSD and
7 Nye Naturals and their associated Nevada cannabis licenses. *See* **Exhibit B.**, Dkt.
8 91 in Case No. A-17-755479-B, April 16, 2019, Notice of Entry of Amended Injunction
9 at 6, attached to Decl. of Emily N. Bordelove.

10 As noted in the underlying Motion, on or about June 12, 2019, about four
11 months after the above TRO was entered, Debtor claims it reorganized and
12 transferred its ownership interest in Clark NMSD and Nye Naturals to a *different*
13 NuVeda LLC, a Delaware limited liability company (“NuVeda DE”). *See* underlying
14 Motion ¶ 5 at 8, *see also* Exhibit 8 to underlying Motion, Dkt. 190 in Case No. A-15-
15 728510-C, Opposition to Motion to Appoint Receiver at 7.

16 As outlined in the MIPA attached to Exhibit 8 to the underlying Motion, the
17 natural persons with ownership interests in Debtor, Joseph Kennedy, Pejman Bady,
18 and Pouyha Mohajer also own NuVeda DE. *See id.* at 18-19.

19 There has been no allegation nor assertion that Debtor obtained regulatory
20 approval from any Nevada state agency, including the CCB, for the transfer of
21 Debtor’s interests in Clark NMSD and Nye Naturals to NuVeda DE. Under Nevada
22 law, a transfer of ownership interest in a cannabis establishment is not effective until
23 the state agency is notified of the transfer and the state agency finds that each person
24 acquiring an ownership interest is individually qualified to be an owner of a cannabis
25 establishment. *See* Nev. Admin. Code § 453D.315(5) (repealed 2020); Nevada
26 Cannabis Compliance Regulation (“NCCR”) 5.110(1).

27 As of the date of this Limited Joinder, the CCB’s records reflect Debtor, not
28 NuVeda DE, as the parent company that owns both Clark NMSD and Nye Naturals.

1 **B. PLAN OF REORGANIZATION**

2 Debtor filed its Plan of Reorganization (“Plan”) on July 11, 2022. *See* Dkt 89.
 3 In the Plan, Debtor states that it will be funded by a \$500,000 loan from one or more
 4 of its equity security holders. *See* Dkt 89 at 2 & 4. According to Debtor’s Voluntary
 5 Petition for Non-Individuals Filing for Bankruptcy, Debtor’s Security holders are
 6 Joseph Kennedy, Pejman Bady, and Pouyha Mohajer. *See* Dkt. 1’s Exhibit 3 at 16.

7 **LEGAL ARGUMENT**

8 **I. DEBTOR OWNS THE SUBSIDIARIES THAT HOLD THE CANNABIS**
 9 **LICENSES BECAUSE NO STATE AGENCY APPROVED THE**
 10 **TRANSFER TO NUVEDA DE.**

11 The underlying Motion argues that Debtor’s prior ownership of cannabis
 12 facilities provides cause for dismissal under Section 1112(b) of the Bankruptcy Code.
 13 *See* underlying Motion at 16-19. The CCB joins in this argument and additionally
 14 provides that Debtor ***presently*** serves as the parent company for Clark NMSD and
 15 Nye Naturals.

16 Ownership interest in a cannabis license cannot be transferred absent
 17 notification and approval from the CCB. NRS 678B.380 provides in pertinent part
 18 that “[e]xcept as otherwise provided by regulations adopted by the Board pursuant to
 19 subsection 2, the following are nontransferable... [a] medical cannabis establishment
 20 license [and] [a]n adult-use cannabis establishment license.” NRS 678B.380 (1)(d)-
 21 (e). In 2019 when the alleged transfer occurred to the present, Nevada law has
 22 expressly stated that a transfer of ownership interest in a cannabis establishment is
 23 not effective until the state agency is notified of the transfer and the state agency
 24 finds that each person acquiring an ownership interest is individually qualified to be
 25 an owner of a cannabis establishment. *See* Nev. Admin. Code § 453D.315(5) (repealed
 26 2020); NCCR 5.110(1).

27 As noted above, there has been no allegation nor assertion that Debtor notified
 28 and obtained regulatory approval from the CCB or its predecessor for the transfer of
 interest to NuVeda DE. Further, the CCB’s records currently reflect Debtor, not

NuVeda DE, as the parent company owning both Clark NMSD and Nye Naturals. Furthermore, given the state district court's order in Case No. A-17-755479-B enjoining Debtor from transferring assets, including the Nevada cannabis licenses, it is an open question as to whether the CCB could approve a request to transfer Debtor's ownership interest in Clark NMSD and Nye Naturals to NuVeda DE.

Debtor may argue that even if it owns Clark NMSD and Nye Naturals "on paper," practically, NuVeda DE and not Debtor, received cannabis related money from these entities that would implicate 11 USC § 1112(b). However, as noted above, Debtor will be financed from a \$500,000 loan from one or more of its equity security holders. These equity security holders, Joseph Kennedy, Pejman Bady, and Pouyha Mohajer, also own NuVeda DE and receive cannabis related money from Clark NMSD and Nye Naturals. As a result, the loan from Debtor's equity security holders to fund Debtor could originate from cannabis related money that would implicate 11 USC § 1112(b).

Thus, the CCB supplements the arguments in the underlying Motion that dismissal is warranted under 11 USC § 1112(b) with the fact that Debtor *currently* owns Clark NMSD and Nye Naturals.

II. ORDER CONFIRMING TERMINATION OF STAY DUE TO DISMISSAL

If this Court grants the underlying Motion, the CCB, as a real party in interest², requests an Order from this Court confirming that the automatic stay has been terminated.

11 USC § 362 (j) provides "[o]n request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated." 11 USC § 362(c)(2)(B) provides that "[e]xcept as provided in subsections (d), (e), (f), and (h) of this section-- the stay of any other act under subsection (a) of this section continues until the earliest of--the time the case is dismissed."

² Please see the CCB's Motion for Declaratory Relief, filed contemporaneously with this Limited Joinder.

1 Thus, if this Court grants the underlying Motion and dismisses Debtor's
2 bankruptcy case, the CCB requests an Order from this Court, pursuant to 11 USC §
3 362 (j), confirming that the automatic stay has been terminated.

4 **CONCLUSION**

5 For the reasons stated, the CCB files this Limited Joinder To Creditor Jennifer
6 M. Goldstein's Motion To Dismiss Bankruptcy Petition and requests, if this Court
7 grants said motion an Order Confirming Termination Of Stay Due To Dismissal of
8 the Bankruptcy case.

9 DATED this 18th of July, 2022.

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11 By: 

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